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Attorney for Plaintiff
 SIENNA HORNBACK

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

SIENNA HORNBACK,

Plaintiff,

vs.

NEW YORK TIMES COMPANY LONG
 TERM DISABILITY PLAN;
 METROPOLITAN LIFE INSURANCE
 COMPANY; NEW YORK TIMES
 COMPANY FLEXIBLE BENEFITS
 PROGRAM; NEW YORK TIMES
 COMPANY SUPPLEMENTAL
 RETIREMENT AND INVESTMENT PLAN;
 NEW YORK TIMES COMPANY PENSION
 PLAN,

Defendant.

CASE NO.: C 05 00508 SBA

**STIPULATION AND [PROPOSED]
 ORDER RE DISMISSAL OF
 DEFENDANT METROPOLITAN LIFE
 INSURANCE COMPANY WITHOUT
 PREJUDICE (F.R.C.P. 41(a)(1))**

IT IS HEREBY STIPULATED as follows by and between Plaintiff Sienna Hornback and
 Defendant Metropolitan Life Insurance Company ("MetLife"), through their respective counsel:

1. Whereas Plaintiff filed a lawsuit against Defendants New York Times Company
 Long Term Disability Plan ("LTD Plan"); New York Times Company Flexible

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Benefits Program; New York Times Company Supplemental Retirement and Investment Plan; New York Times Company Pension Plan; and MetLife;

2. Whereas Plaintiff contends she is a participant in the LTD Plan and meets the requirements for total disability under the LTD Plan;
3. Whereas Plaintiff submitted a claim under the LTD Plan;
4. Whereas MetLife acts as the initial claims administrator for the LTD Plan and made the initial determination of denial on Plaintiff's claim;
5. Whereas Plaintiff appealed the initial determination on her claim and the Times ERISA Management Committee ("EMC"), as designated in the LTD Plan, made the final determination as to Plaintiff's appeal of denial and affirmed denial of her disability claim;
6. Whereas MetLife contends that it is not a proper or necessary party to this action because it provides only administrative services to the LTD Plan, and is not the funding source of the LTD Plan and not vested with authority by the LTD Plan to make final determinations of appeals;
7. Whereas MetLife agrees to be bound by the final judgment in or any agreed resolution of this action insofar as such judgment or resolution determines Plaintiff's rights under the LTD Plan.

IT IS THEREFORE STIPULATED that this action be dismissed in its entirety without prejudice as to MetLife only, pursuant to F.R.C.P. 41(a)(1), with each party to bear its own costs of

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1 suit and attorney's fees.

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3 **IT IS SO STIPULATED.**

4 Dated: July 7, 2005

BARGER & WOLEN LLP

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6 By: /s/ J. Russell Stedman
J. RUSSELL STEDMAN
7 KATHLEEN E. DYER
8 Attorneys for Defendants
METROPOLITAN LIFE INSURANCE
9 COMPANY

10 Dated: July 7, 2005

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12 By: /s/ Richard Johnston
13 RICHARD JOHNSTON
14 Attorney for Plaintiff
SIENNA HORNBACK

15 **ORDER**

16 GOOD CAUSE APPEARING THEREFORE, IT IS SO ORDERED that Defendant
17 MetLife is dismissed without prejudice from the above-captioned action in its entirety, each party to
18 bear its own costs of suit and attorney's fees.

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20 Dated: July 7, 2005

/s/ Sandra Brown Armstrong
HON. SAUNDRA B. ARMSTRONG